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EXAMINER

ROSEN, NICHOLAS D

ART UNIT PAPER NUMBER

2165

DATE MAILED: 04/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/339,059

Applicant(s)

LEWIS, MORRIS E.

Examiner

Nicholas D. Rosen

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 23 June 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☒ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claims 1-24 have been examined.

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 23, 24, 25, 26, and 27 (from Figures 9 and 10), 28A, 28G, 28H, 28I, 28J, 28K, 28M, and 29K (from Figure 12). A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Since allowable subject matter has been indicated, applicant is encouraged to submit formal drawings in response to this Office Action. The early submission of formal drawings will permit the Office to review the drawings for acceptability and to resolve any informalities remaining therein before the application is passed to issue. This will avoid possible delays in the issue process.

Specification

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: In two places on the fourth page of the specification, and at the bottom of the fifth page of the specification, the statement "(Information Being Researched and Developed and Will Be Included in The Patent Application)" occurs. This is improper, and should be deleted. The same statement occurs at the bottom of the eleventh page of the specification.

The specifications are not in accordance with the preferred layout (see below). Much of what the current specification contains under "Brief Description of the Drawings" would normally fall under "Detailed Description of the Drawings." The preferred format is a "Brief Description of the Drawings," listing all of the Figures in such terms as "Figure 1 is a diagram of the interactive online product and service ordering system." This is normally followed by a "Detailed Description of the Drawings," which

sets forth in detail what features are shown, and what is done in the course of using the invention. The Applicant may wish to read the patents made of record with the present Office action for examples of how such descriptions should be drawn up. **No new matter should be introduced in any amendments to the specification.**

Some particular problems with the specification are as follows: At the beginning of the specification, there should be a separate paragraph saying "This application claims priority to provisional applications 60/090,698, filed June 24, 1998, and 60/133,532, filed May 10, 1999."

On the third page of the specification (second line of the final paragraph), "Invention 's" should be "Invention's". In the first line of the seventh page, "bar-code data" should be followed by a semicolon rather than a comma. The second and third paragraphs on the seventh page have some ungrammatical (and badly punctuated) language.

The paragraph describing Figure 4 contains the phrase "modules s 1," which does not appear to make sense, and may be an error for "modules, as in Figure 1." The same paragraph ends with two periods.

This list of problems is not intended as exhaustive.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

Art Unit: 2165

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United

States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

Or alternatively, Reference to a "Microfiche Appendix": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.

- (e) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
 - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
 - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (f) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (g) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (h) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is

necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

- (i) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet (37 CFR 1.52(b)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (j) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
- (k) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

Claim Objections

Claims 1, 4-7, and 9 are objected to because of the following informalities: In the fifth and sixth lines of claim 1, the phrase "in accordance with the present invention" is unnecessary, and verges on an omnibus claim. In the ninth line, the word "and" (or possibly "or") should precede "purchasing facilitation means." In the tenth line, there

should be an "a" before "buyers real-time interactive sub-system module," and "buyers" should be "buyers'" (with a plural possessive ending). In the eleventh line, "a ordering means" should be "an ordering means". In the fourteenth line, "said members interface" should be "wherein said members interface" on purely grammatical grounds (see below for rejection on lack of proper antecedent basis). In the fifteenth line, there should be a comma after "online". In the seventeenth line, "consist" should be "consisting". In the nineteenth line, "includes" should be "include", since the subject of the verb is plural. In the twenty-second line, "with communicates" should be "which communicates". In the twenty-second and twenty-third lines, "sub-systems members" should be "sub-system members", or simply "sub-systems". In the twenty-ninth and thirtieth lines, "product ordering and re-ordering member" should be either "a product ordering and re-ordering member" or "product ordering and re-ordering members". In the thirty-sixth line, "signals" should be preceded by a comma instead of a semicolon. In the thirty-eighth line, the claim should end with a period, rather than a semicolon; also the concluding clause should have a verb, for example, "are made". Appropriate correction is required.

Claim 4 is objected to because of the following informalities: Instead of "The invention in accordance with claim 1", claim 4 should begin "The method [or apparatus, or system, etc.] of claim 1". Moreover, the whole comprises its parts; the parts do not comprise the whole. Therefore, claim 4 should recite "wherein the ordering and re-ordering system comprises a remote re-ordering means, etc." In the second line of claim 4, "a ordering" should be "an ordering". Appropriate correction is required.

Claim 5 is objected to because of the following informalities: Instead of "The invention in accordance with claim 1", claim 5 should begin "The method [or apparatus, or system, etc.] of claim 1". In the seventh line, the semicolon after "such as" should either be deleted, or replaced by a colon. In the eighth line, there should not be a space between the word "camera" and the following comma, and there should be a period after the abbreviation "etc". In the twelfth line, if the claim is intended to end, it should end with a period, not a comma followed by a space and then a period. If the claim is not intended to end, other punctuation, such as a semicolon, should precede the new clause. Appropriate correction is required.

Claim 6 is objected to because of the following informalities: Instead of "The invention in accordance with claim 1", claim 6 should begin "The method [or apparatus, or system, etc.] of claim 1". In the second line, "interfacing" should be "interface". In the third line, if "IF" means "infrared frequency", it should preferably be written out, since the usual abbreviation is "IR"; also, there does not seem to be any need to capitalize "Signal". Appropriate correction is required.

Claim 7 is objected to because of the following informalities: Instead of "The invention in accordance with claim 1", claim 7 should begin "The method [or apparatus, or system, etc.] of claim 1". In the second line, "ordering re-ordering" should be "ordering and re-ordering". In the fourth line "PFS mean" should be "PFS means", unless the word "means" is to be dispensed with altogether. In the eighth line, "etc" should be followed by a period, being an abbreviation; and there should be a semicolon (or other rewriting) before the new clause. Appropriate correction is required.

Claim 7 is objected to because the lines are crowded too closely together, making reading and entry of amendments difficult. A substitute claim with lines one and one-half or double spaced on good quality paper is required. See 37 CFR 1.52(b).

Claim 9 is objected to because of the following informalities: Instead of "The invention in accordance with claim 1", claim 9 should begin "The method [or apparatus, or system, etc.] of claim 1". In the second line of claim 9, "member consist" should be either "members consist" or "member consists". In the tenth line there should not be a comma after "the camera means". In the seventeenth line, there should not be commas after "means" (both occurrences). In the twenty-second and twenty-third lines, "a principal feature of the present invention is the" should be deleted. In the twenty-fifth line, there should be one comma, not two, after "system means". In the thirty-first line, "cameras mounting slide" should be "cameras' mounting slide". In the thirty-second line, "with" would be better than "w/". Semicolons should be followed by line breaks and indentations in the next lines. The claim should end with a period rather than a comma. The whole claim should be revised to be grammatical and coherent, the exact nature of the revisions depending on whether it is to be a method or system claim. Appropriate correction is required.

Claims 2 and 8 are objected to because of the following informalities: In claim 2, line 20, there should be an "and" after the semicolon. In line 26, "for full" should be "means for full". In line 30, "view, means" should be "view, and means". There should

be a period rather than a comma at the end of the claim. Appropriate correction is required.

Claim 8 is objected to because of the following informalities: Instead of "The invention in accordance with claim 2", claim 8 should begin "The method [or apparatus, or system, etc.] of claim 2". In lines 1 and 2, "real-time interactive online showroom and trade show booth means" should be the subject of a verb that appears to be missing. In line 5, "includes" should be "including". In line 6 there should not be a space between "track means" and the following comma. The semicolon in line 6 should be followed by a line break, with the next line indented, and similarly with the semicolon in line 11; also "The" in line 11 should not be capitalized. In line 14, "systems brings" should be either "system brings" or "systems bring". If line 16 ends the claim, it should end with a single period, not two periods separated by a space. Appropriate correction is required.

Claims 3 and 10-24 are objected to because of the following informalities: In claim 3, there should not be commas after "with" in lines 3, 6, 9, 12, 15, and 18. there should be an "and" at the end of line 17, and there should be a period rather than a semicolon at the end of the claim. Appropriate correction is required.

Claim 10 is objected to because of the following informalities: Instead of "The invention in accordance with claim 3", claim 10 should begin "The method [or apparatus, or system, etc.] of claim 3". In the second line, there should be only a single space between "for" and "Merchant". Appropriate correction is required.

Claim 11 is objected to because of the following informalities: Instead of "The invention in accordance with claim 3", claim 11 should begin "The method [or apparatus, or system, etc.] of claim 3". In the second line, there should be only a single space between "for" and "Product". Appropriate correction is required.

Claim 12 is objected to because of the following informalities: Instead of "The invention in accordance with claim 3", claim 12 should begin "The method [or apparatus, or system, etc.] of claim 3". There should be a period at the end of the claim. Appropriate correction is required.

Claim 13 is objected to because of the following informalities: Instead of "The invention in accordance with claim 3", claim 13 should begin "The method [or apparatus, or system, etc.] of claim 3". In the second line, there should be only a single space between "for" and "an". In the third line "The" should not be capitalized, and "invention 's" should be "invention's", except that the whole phrase should be rewritten, e.g., from "The present invention's online CyberShowRoom means provide" to "wherein a CybershowRoom provides". Appropriate correction is required.

Claim 14 is objected to because of the following informalities: Instead of "The invention in accordance with claim 3", claim 14 should begin "The method [or apparatus, or system, etc.] of claim 3". There should be a period at the end of the claim. Appropriate correction is required.

Claim 15 is objected to because of the following informalities: Instead of "The invention in accordance with claim 3", claim 15 should begin "The method [or apparatus,

or system, etc.] of claim 3". There should be a period at the end of the claim.

Appropriate correction is required.

Claim 16 is objected to because of the following informalities: Instead of "The invention in accordance with claim 3", claim 16 should begin "The method [or apparatus, or system, etc.] of claim 3". There should be a period at the end of the claim.

Appropriate correction is required.

Claim 17 is objected to because of the following informalities: Instead of "The invention in accordance with claim 3", claim 17 should begin "The method [or apparatus, or system, etc.] of claim 3". In the second line, there should be only a single space between "for" and "Shoppers". There should be a period at the end of the claim.

Appropriate correction is required.

Claim 18 is objected to because of the following informalities: Instead of "The invention in accordance with claim 3", claim 18 should begin "The method [or apparatus, or system, etc.] of claim 3". In the second line, there should be only a single space between "for" and "a". There should be a period at the end of the claim. Appropriate correction is required.

Claim 19 is objected to because of the following informalities: Instead of "The invention in accordance with claim 3", claim 19 should begin "The method [or apparatus, or system, etc.] of claim 3". In the second line, there should be only a single space between "for" and "a". There should be a period at the end of the claim. Appropriate correction is required.

Claim 20 is objected to because of the following informalities: Instead of "The invention in accordance with claim 3", claim 20 should begin "The method [or apparatus, or system, etc.] of claim 3". In the second line, there should be only a single space between "for" and "Online". There should be a period at the end of the claim.

Appropriate correction is required.

Claim 21 is objected to because of the following informalities: Instead of "The invention in accordance with claim 3", claim 21 should begin "The method [or apparatus, or system, etc.] of claim 3". In the second line, there should be only a single space between "for" and "Local". There should be a period at the end of the claim.

Appropriate correction is required.

Claim 22 is objected to because of the following informalities: Instead of "The invention in accordance with claim 3", claim 22 should begin "The method [or apparatus, or system, etc.] of claim 3". In the second line, there should be only a single space between "for" and "Remote". There should be a period at the end of the claim.

Appropriate correction is required.

Claim 23 is objected to because of the following informalities: Instead of "The invention in accordance with claim 3", claim 23 should begin "The method [or apparatus, or system, etc.] of claim 3". In the second line, there should be only a single space between "for" and "Rebates". There should be a period at the end of the claim.

Appropriate correction is required.

Claim 24 is objected to because of the following informalities: Instead of "The invention in accordance with claim 3", claim 24 should begin "The method [or apparatus,

or system, etc.] of claim 3". In the second line, "linking means video clips means to other information means" should be simply "linking video clips to other information." There should be a period at the end of the claim. Appropriate correction is required.

Incidentally, Applicant may wish to replace "consisting of" with "comprising" throughout the claims. Should a patent issue, "consisting of" might unnecessarily narrow it, by enabling competitors to make and use a system including what Applicant's claims recite, and also other features not recited, and to argue that such a system did not infringe on the patent, since it did not consist only of what the patent claims recited as the patented system. This is not to be construed as a definitive statement or guarantee of how the courts might rule on claim language.

Applicant may also wish to be careful with the use of the words "or" and "and". If a claim recites as a limitation "A, B, or C", then the limitation is anticipated by prior art showing any of A, B, or C. If a patented claim recites as a limitation "A, B, and C", then the patent will probably be held to cover only systems including all three of A, B, and C. Again, this is not to be construed as a definitive statement or guarantee of how the courts might rule on claim language.

It is not necessary or helpful to sprinkle the claims with the word "means" where it adds nothing to the substance or breadth of the claims. It is sometimes proper and useful to use means-plus-function language, e.g., claiming "communications means" or "means for communicating", which may refer to any of a copper wire telephone line, a radio transceiver, or various other communications means. However, if Applicant is

specifically claiming a microphone, earphones, and a radio unit with an antenna, there does not appear to be any reason to write "a microphone means, earphones means, and mini-radio unit w/ antenna means" (to quote from claim 5). Similarly, there does not seem to be any advantage to sprinkling the claims with the word "member".

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 4-7, and 9 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for parts of the claims, does not reasonably provide enablement for the limitation recited in line 32 of claim 1, "and any other appropriate signal conveying means". The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims. One of ordinary skill in the art would not likely be familiar with *all* other signal conveying means, or be able to be certain that he was familiar with all such means, even if he was, or be certain which means were appropriate.

Claims 1, 4-7, and 9 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for parts of the claims, does not reasonably provide enablement for the limitation recited in line 36 of claim 1, "all types of goods and services". The specification does not enable any person skilled in the art to which it

pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims. One of ordinary skill in the art would not likely be familiar with *all* types of goods and services, or be able to be certain that he was familiar with all such means, even if he was. [It would be preferable to write "any types of goods or services.]

Claim 6 is rejected under 35 U.S.C. 112, first paragraph, because the specification does not reasonably provide enablement for the limitation recited in line 4 of claim 6, "and any other signal conveying means". The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with claim 6. One of ordinary skill in the art would not likely be familiar with all other signal conveying means, or be able to be certain that he was familiar with all such means, even if he was, or be certain which means were appropriate.

Claim 22 rejected under 35 U.S.C. 112, first paragraph, because the specification does not reasonably provide enablement for "Remote Over the Counter Business Processes". The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. It is not clear how business processes are to be simultaneously remote and over-the-counter.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 4-7, and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 4-7, and 9 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Claim 1 recites, in the first line, "A method and apparatus," which is improper. A claim can claim a method and recite the steps thereof, or claim an apparatus, and recite the components thereof, but not both together. In substance, claim 1 reads more like an apparatus claim, reciting various means and modules.

Claim 1 recites the limitation "and any other appropriate signal conveying means" in the thirty-second line. This is unclear in that one cannot easily determine what other signal conveying means are appropriate, nor is it easy to see how all such means are to be included in the system claimed. [The applicant may wish to write "or" in place of "and".]

Claim 1 recites the limitations "the microprocessor based purchasing facilitation member" in lines 23 and 24 and "said purchasing facilitation member" in line 25. There is insufficient antecedent basis for these limitations in the claim.

The term "Hi-Quality" in claim 1 is a relative term which renders the claim indefinite. The term "Hi-Quality" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claims 4-7 and 9 are rejected as depending on claim 1.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 5 recites the broad recitation "various cameras" in the seventh line, and the claim also recites "such as; a finger bracket camera, eyeglass, cap, beeper, etc covert cameras and various other camera

systems which are mounted on tripods or any other type stand or mount”, which is the narrower statement of the range/limitation. A further difficulty is that it is unclear what the “etc” in line 8 includes, therefore making claim 5 fail to particularly point out and distinctly claim the subject matter which the applicant regards as his invention.

Claim 5 recites the limitation “the PFS means” in the fifth line, and “The real-time interactive online salesperson” in the twelfth and thirteenth lines. There is insufficient antecedent basis for these limitations in the claim.

The term “Hi-Quality” in claim 5 is a relative term which renders the claim indefinite. The term “Hi-Quality” is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 6 recites “and any other signal conveying means”, which renders the claim vague and indefinite by implying that all possible signal conveying means are included. It would be proper to write “or any other signal conveying means” instead.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim must be in one sentence form only.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. The word "here" in line 8 renders the claim vague and indefinite, since it is unclear where "here" is.

The term "small business" in claim 7 is a relative term which renders the claim indefinite. The term "small business" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitations "the remote operated online product demonstration system member" in the first and second lines, "the unit" in the fifth line, "the motorized revolving hanger rack means" in the seventh and eighth lines, "the motorized revolving platform means" in the eighth line, "the cameras means" in the tenth line, "the equipment bay means" in the twelfth and thirteenth lines, "the CCTV camera means" in the fifteenth line, "the lower edge" in the nineteenth line, "the backdrop" in the twentieth line, "the picture" in the twenty-second line, "the means for changing the scene" in the twenty-third line, and "the system antenna means" in the twenty-eighth line. There is insufficient antecedent basis for these limitations in the claim.

The term "much better" in the sixth line of claim 9 is a relative term which renders the claim indefinite. The term "much better" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claims 2 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2 and 8 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Claim 2 recites, in the first line, "A method and apparatus," which is improper. A claim can claim a method and recite the steps thereof, or claim an apparatus, and recite the components thereof, but not both together. In substance, claim 2 reads more like an apparatus claim, reciting various means and modules.

The term "much better" in claim 2 (lines 29 and 30) is a relative term which renders the claim indefinite. The term "much better" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, because claims must be in one sentence form only.

Moreover, the sentences beginning at the seventeenth line of claim 8 merely praise the alleged advantages of the invention, rather than particularly pointing out and distinctly claiming the subject matter which the applicant seeks to patent.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation "the PFS means" in line 10, and "the systems" in line 14. There is insufficient antecedent basis for these limitations in the claim.

Claims 3 and 10-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3 and 10-24 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Claim 3 recites, in the first line, "Method and processes", which should preferably be "A method", but then recites members and means (parts of an apparatus), rather than steps in a method.

Claims 10-24 are rejected as depending on claim 3.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim must be in one sentence form only. In the fourth line, it is necessary to specify what comprises a "Purchasing Facilitation Systems method".

The term "small business" in claim 10 is a relative term which renders the claim indefinite. The term "small business" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim must be in one sentence form only. In the fourth line, it is necessary to specify what comprises a "means for a system modules", as well as to make the claim grammatical and coherent.

The term "small business" in claim 11 is a relative term which renders the claim indefinite. The term "small business" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term “high quality” in claim 13 (line 4) is a relative term which renders the claim indefinite. The term “high quality” is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by “such as” and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 13 recites the broad recitation “brand and category”, and the claim also recites “such as food products and services, housing products and services, apparel products and services, transportation products and services, health care products and services, insurance products and services, entertainment and recreation products and services”, which is the narrower statement of the range/limitation.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 3 and 10-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 3 recites, as apparent elements of the claim, "online buyer members" [line 3], "online shopper members" [line 6], "online seller members" [line 9], "over-the-counter buyer members" [line 12], "over-the-counter shopper members" [line 15], and "over-the-counter seller members" [line 18]. These various sorts of members are presumably human beings, and human beings cannot be patented.

Claims 10-24 are rejected as depending on claim 3.

It is possible and appropriate to refer to human beings in a claim, but not to claim them as elements of an invention. For example, in a method claim, one might write as a step of the method, "receiving advertisements by online buyers;" or, in an apparatus claim, one might write as an element of the apparatus, "buyer financial institutions, by which online buyers can arrange to transfer funds to sellers."

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mosher et al. (U.S. Patent 6,029,143) in view of Gerszberg et al. (U.S. Patent 6,044,403). As per claim 1, Mosher discloses an apparatus for real-time interactive online direct ordering and re-ordering of products and services, the apparatus comprising: a modularly structured real-time interactive online product and services ordering and re-ordering means (Abstract; column 1, line 48, through column 3, line 32), comprising remote re-ordering module members (column 6, lines 3-9; figures 1 and 2), product opening/unsealing module members with ordering modules comprising barcode type reader means (column 9, lines 33-41) and purchase facilitation means (column 2, lines 6-21; column 9, lines 33-41). Mosher does not expressly disclose monitor means, but does disclose personal computers (column 9, lines 33-41), and official notice is taken that it is well known for personal computers to have monitors. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the ordering modules to include monitor means, for the obvious advantage of enabling users to conveniently observe data. Mosher does not expressly disclose RF type reader means, but does disclose "other corresponding input and output devices" (column 9, lines 38-39), and official notice is taken that RF readers are well known (see, for example, Simciak et al., U.S. Patent 5,793,967). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the ordering modules to include RF type reader means, for the obvious advantage of transmitting and receiving data from a distance.

Mosher discloses a buyer's real-time interactive subsystem module comprising a product opening/unsealing station with an ordering means comprising barcode type reader means (column 9, lines 33-41) and communication means that communicate by wireless, online, or otherwise with a seller sub-system module (column 9, lines 42-49). Mosher does not expressly disclose that said members interface with microprocessor means, but does disclose personal computers (e.g., lines 33-49), and official notice is taken that it is well known for personal computers to have microprocessors as essential components. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the members to interface with microprocessor means, for the obvious advantage of enabling the computers to function. Mosher does not expressly disclose RF type reader means, but does disclose "other corresponding input and output devices" (column 9, lines 38-39), and official notice is taken that RF readers are well known (see, for example, Simciak et al., U.S. Patent 5,793,967). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the buyer's real-time interactive sub-system module to include RF type reader means, for the obvious advantage of transmitting and receiving data from a distance. Mosher does not disclose a camera system with microphone means or a video display monitor means, but Gerszberg teaches a videophone for participating in electronic commerce (Figure 3A; column 11, lines 12-36), implying a camera system with microphone means, and video display monitor means. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the buyer's real-

time interactive sub-system module to include a camera system with microphone means, and video display monitor means, for the advantage, as stated by Gerszberg, of facilitating electronic shopping and other services.

Mosher discloses a seller sub-system module which interfaces and communicates with other sub-system members and a purchasing facilitation member (e.g., Figure 1), from which signal conveying means to send and receive communications is held to be inherent, but Mosher does not expressly disclose that said seller sub-system includes a microprocessor member. However, official notice is taken that it is well known for computers to have microprocessors as essential components. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the seller sub-system module to include to a microprocessor member, for the obvious advantage of enabling the computers to function. Mosher does not disclose that the seller sub-system module comprises audiovisual means, including various camera members, but Gerszberg discloses the use of videophones, from which cameras are held to be inherent, in electronic commerce (column 11, lines 12-36). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the seller sub-system module to include audiovisual means, including various camera members, for the stated advantage of facilitating electronic commerce. Mosher does not disclose real-time capable headset means, microphone means, and earphone means, but official notice is taken that headsets, microphones, and earphones are well known, and that they commonly operate in real-time. Hence, it would have been

obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the seller sub-system module include real-time capable headset means, microphone means, and earphone means, for the obvious advantage of enabling seller agents to communicate conveniently with buyers and other persons.

Mosher discloses a purchasing facilitation member interfacing comprising a computer/server means and communications means (column 1, line 56, through column 2, line 5; column 2, line 58, through column 3, line 10). Mosher does not disclose auxiliary power means, but official notice is taken that it is well known to maintain auxiliary power supplies for electrical equipment. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the purchasing facilitation member interfacing to include auxiliary power means, for the obvious advantage of assuring the continued functioning of the seller sub-system in the event of an interruption of the regular power supply. Mosher does not expressly disclose interfacing bus means, but official notice is taken that buses are well known (see, for example, the Microsoft Press Computer Dictionary, page 68). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the purchasing facilitation member interfacing to include interfacing bus means, for the obvious advantage of enabling communication to take place. Mosher does not disclose peripheral microprocessor rack means, but official notice is taken that it is well known for microprocessors and other computer components to be installed in racks (see, for example, the Microsoft Press Computer Dictionary, page 393). Hence, it would have been obvious to one of ordinary skill in the

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art of electronic commerce at the time of applicant's invention for the purchasing facilitation member interfacing to include peripheral microprocessor rack means, for the obvious advantage of fitting equipment into a rack of standard width. Mosher does not expressly disclose that the purchasing facilitation member interfacing comprises controls, but it is held to be inherent to the functioning of computers that they have controls. Mosher does not expressly disclose that the purchasing facilitation member interfacing comprises relay means, but official notice is taken that relays are well known (see, for example, the Microsoft Press Computer Dictionary, page 405). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the purchasing facilitation member interfacing to comprise relay means, for the obvious advantage of enabling signals to be automatically routed.

Mosher does not expressly disclose that the purchasing facilitation member interfaces with product ordering and re-ordering means by a way of direct wire means, IF signal means, RF signal means, optic signals, laser signals means, *and* any other appropriate signal conveying means, but official notice is taken that direct wire communication, radio frequency signals, optical signals (e.g., in fiber optics), and laser signals are well known means of communication. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the purchasing facilitation member to interface with product ordering and re-ordering means by any of these, or by other standard means for conveying signals, for the obvious advantage of enabling electronic commerce to take place. Mosher does not expressly disclose that the purchasing facilitation member also interfaces with local/area

hub server members, but official notice is taken that local/area hub servers are well known (see, for example, the Microsoft Press Computer Dictionary, pages 239 and 430). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the purchasing facilitation member to interface with local/area hub server members, for the obvious advantage of enabling communication to take place over the Internet, or other nets using hub/server architecture. Mosher does not expressly disclose that the purchasing facilitation member conveys signals for the purchase of all types of goods and services, but official notice is taken that it is well known to purchase a variety of goods and services by electronic shopping (see, for example, Kenney, U.S. Patent 6,026,376). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to signals for the purchase of any type of goods or services, for the obvious advantage of profiting from the sale of such goods and services.

As per claim 4, claim 4 does not appear to add anything new to claim 1, and is therefore rejected on the grounds set forth above.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mosher and Gerszberg as applied to claim 1 above. Much of claim 5 appears merely to repeat limitations of claim 1, and therefore is rejected on the same grounds. Claim 5 additionally recites various types of cameras, and recites that an interactive online salesperson is equipped with a headset. Mosher does not expressly disclose a finger bracket camera, eyeglass, cap, beeper, etc. covert cameras, and other cameras mounted on tripods or other types of stand or mount, but Gerszberg teaches the use of

a videophone (column 11, lines 12-36), implying a camera or cameras, and official notice is taken that various covert cameras, and cameras mounted on tripods or other stands, are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the seller subsystem include cameras of these various types, for the obvious advantages of facilitating communication between a buyer and a salesperson, and enabling the buyer to observe merchandise for possible purchase.

Mosher does not disclose that a salesperson is also equipped with a real-time capable headset, but official notice is taken that it is well known for people to be equipped with headsets that have microphones, earphones, and sometimes mini-radios with antennas. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for a salesperson to be thus equipped, for the obvious advantage of enabling the salesperson to converse with remote buyers with a minimum of background noise.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mosher and Gerszberg as applied to claim 1 above. Mosher discloses the use of radio frequency signals for interfacing between modules to facilitate purchases (column 7, lines 50-57). Mosher does not expressly disclose that ordering modules interface with a purchasing facilitation means by direct wire means, infrared signal means, optical means, and laser means, but official notice is taken that these are well known means of transmitting signals. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the interfacing

take place by any of these means, for the obvious advantage of enabling signals to be transmitted by standard techniques appropriate to the circumstances.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mosher and Gerszberg as applied to claim 1 above. Mosher does not expressly disclose that the ordering and re-ordering modules are located in homes, but official notice is taken that it is well known for personal computers to be located in users' homes, and for such computers to be used in ordering many types of goods and services over the Internet (see, for example, Kenney, 6,026,376). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the ordering and re-ordering modules to be located in homes and used to make purchases many types of consumer and small business goods and services. Mosher does not disclose that business owners can advertise other goods and services on the product fulfillment system of his invention, but official notice is taken that it is well known to advertise various goods and services on Web sites, including Web sites devoted to other matters than the business doing the advertising. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for business owners to advertise goods and services on the system for ordering products and services, for the obvious advantages of gaining advertising revenue, from the standpoint of the owner of the system, and of gaining customers, from the standpoint of the business owners doing the advertising. Mosher does not disclose that a regional hub server facilitates non-local wholesale purchases including security, fire and carbon monoxide alarm monitoring services, natural gas,

etc., but official notice is taken that it is well known to facilitate the non-local purchase, including wholesale purchase, of a variety of goods and services. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to facilitate non-local wholesale purchases of the particular goods and services recited in the claim, for the obvious advantage of profiting from the sale of such goods and services.

Claims 3, 10-12, 14-16, and 18-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson et al. (U.S. Patent 5,991,736) in view of Siefert (U.S. Patent 5,699,526). As per claim 3, Ferguson discloses a method for real-time shopping, the apparatus for such a method including purchasing facilitation means (Figure 1; column 3, line 48, through column 6, line 32), and discloses use of a credit card or check (column 6, lines 28-38), which is held to imply a buyer financial institution (e.g., the bank which issues the credit card, or upon which the check is drawn) and a seller financial institution (e.g., the bank where the seller deposits the check, or through which credit card payment is credited to the seller). Ferguson does not expressly disclose local servers and regional servers, but Siefert teaches local and regional servers (Figure 1E; column 2, lines 55-67, et subseq.). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include local and regional servers, for the obvious advantage of facilitating business and information transfer among remote parties.

Ferguson discloses carrying out business with checks, credit cards, or other physical tokens (column 7, line 63, column 8, line 49), from which over-the-counter buyer members, over-the-counter shopper members, and over-the-counter seller members are held to be inherent. Ferguson does not expressly disclose Internet commerce, but official notice is taken that this is well known, as taught, for example, by Kenney (U.S. Patent 6,026,376). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to extend Ferguson's invention to online buyer, shopper, and seller members, for the obvious advantage of enabling commerce (and, in Ferguson's invention, consequent rebates and retirement savings) between parties who may not be physically located conveniently to one another.

As per claim 10, Ferguson does not disclose that an ordering and re-ordering system and purchasing facilitation system are located in small business buildings, but official notice is taken that electronic commerce is widespread, being used by small as well as large businesses. The buildings in which small businesses are located are held to be small business buildings; hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the systems to be located in small business buildings, for the obvious advantage of enabling small businesses to participate in buying and selling. As regards the remaining limitations of claim 10, they are closely parallel to the limitations of claim 7, and held to be obvious on the same grounds.

As per claim 11, Ferguson does not disclose having systems located in homes and small business buildings, but this is held to be obvious for the reasons set forth above in regard to claims 7 and 10. The use of local and regional servers is taught by Siefert, as set forth above with regard to claim 3. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to use local and regional servers, for the obvious advantage of facilitating local and non-local purchases.

As per claim 12, Ferguson does not expressly disclose normal distribution and mark-up, but official notice is taken that it is extremely well known for goods to be distributed and marked up. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to practice normal distribution and mark-up, for the obvious advantage of profiting from the sale of goods and services.

As per claim 14, Ferguson does not expressly disclose a method for an Internet purchasing and distribution cycle for employer purchasers, but official notice is taken that Internet purchasing and distribution are well known, and are used by businesses, which are employers. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include an Internet purchasing and distribution cycle for employer purchasers, for the obvious advantage of profiting from the sale of goods and services to employer purchasers.

As per claim 15, Ferguson discloses adding rebates for members (Abstract), but does not expressly disclose eliminating mark-up. However, official notice is taken that it

is well known for co-ops, buying clubs, etc., to reduce or eliminate mark-up for members. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to eliminate mark-up, for the obvious advantage of encouraging shoppers, who may profitable as payers of membership fees, a target for advertising, etc.

As per claim 16, Ferguson discloses a method for over-the-counter purchasing and rebates. As set forth above with regard to claim 3, the disclosure of checks and credit cards is held to imply over-the-counter purchasing; Ferguson discloses rebates at length (Abstract; column 3, line 48, through column 7, line 2).

As per claim 18, Ferguson discloses a method for individual worker shoppers (Abstract; column 3, lines 24-61), but does not disclose a world-wide mall operation. However, official notice is taken that virtual malls on the World Wide Web are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include a world-wide mall operation for individual worker shoppers, for the obvious advantage of profiting from the sale of goods to shoppers all over the world, or nearly so.

As per claim 19, claim 19 is rejected on essentially the same grounds set forth above with regard to claim 14.

As per claim 20, Ferguson does not disclose a method for online business processes, but official notice is taken that online business processes are well known (see Kenney, for example). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include online

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business processes, for the obvious advantage of enabling commerce (and, in Ferguson's invention, consequent rebates and retirement savings) between parties who may not be physically located conveniently to one another.

As per claim 21, claim 21 is rejected on essentially the same grounds set forth above with regard to claim 16.

As per claim 22, Ferguson does not expressly disclose remote over the counter business processes, but official notice is taken that it is well known to perform remote business processes (see Kenney, for example). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include remote over the counter business processes, for the obvious advantage of enabling commerce (and, in Ferguson's invention, consequent rebates and retirement savings) between parties who may not be physically located conveniently to one another.

As per claim 23, Ferguson discloses a method for rebates, saving, and investing processes (Abstract; column 3, line 48, through column 7, line 2).

As per claim 24, Ferguson does not disclose a process for linking video clips to other information means, but official notice that it is well known for video clips to be linked to other information means (e.g., when a video clip may be viewed by clicking on a link in a Web page). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to link video clips to other information means, for the obvious advantage of attracting viewers to video clips (e.g., for advertising purposes).

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson and Siefert as applied to claim 3 above, and further in view of Kenney (U.S. Patent 6,026,376). Ferguson does not disclose having products or services conveniently organized into departments by brand or category, but Kenney teaches this (Figures 6 and 8; column 4, line 63, through column 5, line 9). (Note also Burke, U.S. Patent 5,848,399, Figures 7, 8, and 13.) Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have products or services conveniently organized into departments by brand or category, for the obvious advantage of enabling customers to find desired products or services quickly and easily.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson and Siefert as applied to claim 3 above, and further in view of Gerszberg et al. (U.S. Patent 6,044,403). Ferguson does not disclose a method for shoppers and buyers to interact in real-time over online computers with a CyberSalesPerson, but Gerszberg teaches enabling people to interact in real time over online computers with salespeople and others (column 11, lines 12-36). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include a method for shoppers and buyers to interact in real-time over online computers with a CyberSalesPerson, for the obvious advantages of enabling people to receive assistance, have questions answered, be encouraged to make purchases by human contact and charm, etc.

Allowable Subject Matter

Claim 9 would be allowable if rewritten to overcome the objection(s), and the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record, Kenney (U.S. Patent 6,026,376), discloses, apparatus for real-time interactive online product and services viewing comprising: a remote ordering module, communication means, merchandise displaying means, etc. However, Kenney, like most of the prior art, is directed to displaying simulations of merchandise, and/or video images of merchandise made prior to the customer's electronic shopping. Kenney does not disclose motorized revolving hanger racks, or motorized revolving platforms, etc., which a buyer can remotely manipulate to get a better of view of merchandise. Benman, Jr. (U.S. Patent 5,784,546) does teach live imagery of a trade show, with a camera carried by a robot or remote control device, but without means for interactively moving the merchandise, and similarly with Von Kohorn (U.S. Patent 5,759,101). No prior art of record discloses, teaches, or reasonably suggests means for interactively moving physical merchandise to get a better view.

The following claims drafted by the examiner and considered to distinguish patentably over the art of record in this application, are presented to applicant for consideration:

1. An apparatus for real-time interactive online direct ordering and re-ordering of products and services, the apparatus comprising:

at least one remote ordering module, each said at least one remote ordering module comprising one or more monitors, one or more barcode readers, and other means for facilitating the purchase of products and services, said one or more monitors including video display means;

communication means by which said at least one remote ordering module communicates with one or more seller modules;

one or more seller modules in communication with said at least one remote ordering module, said one or more seller modules comprising one or more cameras, said one or more seller modules receiving signals for the purchase of goods and services, said signals being received from said at least one remote ordering module;

said one or more seller modules comprising or being in communication with at least one remote product demonstration module;

said at least one remote product demonstration module comprising merchandise display apparatus which allows real-time interactive viewing of physical merchandise or information, said apparatus enabling at least one shopper to use said at least one remote ordering module to communicate with said at least one remote product demonstration module via said at least one seller module, and enabling said at least one shopper to view the physical merchandise, and to enhance his or her view of said physical merchandise by interactively moving said physical merchandise, the moving of said physical merchandise being accomplished by controlling at least one of a motorized revolving hanger rack or a motorized revolving platform, said physical

merchandise being suspended from the motorized revolving hanger rack or being located upon said motorized revolving platform;

and wherein said at least one shopper can also enhance his or her view of said physical merchandise by controlling the position of one or more cameras through which said physical merchandise is viewed.

5. The apparatus of claim 1, wherein the one or more cameras comprised by the one or more seller modules comprise at least one of a finger bracket camera, a cap camera, a covert camera, or a camera mounted on a tripod.

6. The apparatus of claim 1, wherein said at least one remote ordering module communicates with said one or more seller modules by means of at least one of a direct wire, infrared signal transmission, radio frequency signal transmission, optical signal transmission, or laser signal transmission.

7. The apparatus of claim 1, wherein said at least one remote ordering module is located in a buyer's home.

Claims 2 and 8 would be allowable if rewritten or amended to overcome the objection(s) and rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record, Kenney (U.S. Patent 6,026,376), discloses a method and apparatus for real-time interactive online product and services viewing comprising: interactive online video capturing, communication means, merchandise

displaying means, etc. However, Kenney, like most of the prior art, is directed to displaying simulations of merchandise, and/or video images of merchandise made prior to the customer's electronic shopping. Kenney does not disclose a real-time interactive tradeshow booth member comprising real-time interactive online video and audio capturing, processing and recording means, merchandise displaying means, various camera mounting and traversing means; a merchandise display case for real-time interactive online viewing of objects or information, comprising viewing members, rotating display members, lighting members, images and sound copying, processing, and conveying members, means for interactively moving the merchandise to get a better view, etc. Benman, Jr. (U.S. Patent 5,784,546) does teach live imagery of a trade show, with a camera carried by a robot or remote control device, but without means for interactively moving the merchandise, and similarly with Von Kohorn (U.S. Patent 5,759,101). No prior art of record discloses, teaches, or reasonably suggests means for interactively moving the merchandise to get a better view.

The following claims drafted by the examiner and considered to distinguish patentably over the art of record in this application, are presented to applicant for consideration:

2. An apparatus for real-time interactive online viewing of products and services, the apparatus comprising:

at least one real-time interactive tradeshow booth comprising interactive online video and audio capturing, processing, and recording means, merchandise displaying means, camera mounting and traversing means, communication means, purchasing

facilitation means, and at least one merchandise display case whereon merchandise or other objects are placed for real-time interactive online viewing of said merchandise or other objects;

wherein said at least one interactive tradeshow booth further comprises cameras, means for dial-up real-time interactive viewing, means for lighting said merchandise display case, means for changing a scene presented to remote viewers of said merchandise, and means for enabling a remote buyer to interactively move said merchandise or other objects placed on said at least one display case, thereby enabling said remote buyer to vary or improve his or her view of said merchandise or other objects.

8. The apparatus of claim 2, wherein said at least one interactive tradeshow booth comprises a CCTV purchasing system, the CCTV purchasing system including means for enabling cameras mounted on a track, in a dome, or on a stand to pan, tilt, and zoom, signals from the cameras being processed and digitally recorded in the purchasing facilitation means, and transmitted to remote viewers, thereby allowing real-time interactive online viewing of the at least one real-time interactive tradeshow booth.

Applicant may wish to add method claims parallel to the suggested apparatus claims, or to add further dependent claims reciting further apparatus or method steps not included in the suggested claims drafted by Examiner as extraneous limitations believed unnecessary to the basic patentable concept (e.g., radio frequency readers).

Since allowable subject matter has been indicated, applicant is encouraged to submit formal drawings in response to this Office Action. The early submission of formal drawings will permit the Office to review the drawings for acceptability and to resolve any informalities remaining therein before the application is passed to issue. This will avoid possible delays in the issue process.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art documents made of record but not relied on as a basis for rejections are similar in structure, environment, or concept to applicant's invention, but do not necessarily read on applicant's claims.

Certain documents may not qualify as prior art, but are made of record as of interest and related to documents with earlier priority or publication dates, which may be prior art. The non-prior art documents made of record are Hudetz et al. (U.S. Patent 6,199,048), Gottsman et al. (U.S. Patent 6,134,548), Abrams et al. (WO 01/09748), Kujirada (Japanese Laid-Open Patent Application 10-228506), and the partial computer translation of Kujirada's patent application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 703-305-0753. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 703-308-1344. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications, 703-746-7340 for non-official/draft communications, and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Nicholas D. Rosen
Nicholas D. Rosen
April 8, 2002